1952 K File No. Payment of wages II | 52 (N)

Legal Dept-
B. BRANCH

Subject:- Notifications under

the Payment of wages

Act- 1936

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File No. Payment- of wages II | 52 (N)

Gen. 191 o.

501-B

Legal Department.

A revised draft Order is sent herewith.

2. In view of the provisions of section 11 of the Payment of Wages Act, 1936, and condition (2) of the draft order, it is not necessary to include condition (1) specified in paragraph 4 of the Commissioner of Labour's letter No. PW/14666/C, dated the 2nd April 1952 (pp. 1-3-C/S) in the said Order.

Id/- B.P.DALAL.
Additional Deputy Secretary to Government.

U.R. to L.& H.D.No.8340, dated the 19th May 1952.

RHB.
3.7.

Legal Department.

A revised draft Order is sent herewith subject to the following observations:

2. The Industrial Tribunal for the adjudication between Messr. Kirloskar Brothers Ltd. and the Workmen employed under them has given an award dated 17th August 1951 directing that the Co. should charge medical charges at the rates specified in annexure 'A' to the award. In view of this award the Kirloskar Bros. Ltd. have approached the Government to issue an order under clause (e) of sub-section (2) of section 7 of the Payment of Wages Act, 1936 authorising the deductions on account of the medical charges at the rates specified in the award. The Commissioner of Labour states that the medical aid in question can be said to be a service supplied by the employers and that the deductions can be allowed under clause(e) of sub-section (2) of section 7 read with section 11 of the Payment of Wages Act, 1936. As the award is binding upon both the parties to the adjudication the details regarding the rates at which the deductions from the wages of the employed persons should be authorised should not be shown in the Order which is to be made under the said section, but should be specified with reference to the terms of the award. If there is a dispute between the parties with reference to the interpretation of that part of the award which relates to the medical charges it can better be resolved with reference to the terms of the award and not with reference to the order now proposed to be made.

3. It is provided in condition (5) of the Labour and Housing Department draft that the medical scheme shall be open for inspection by the Certifying Surgeon. The Commissioner of Labour in his letter at page 7 of the c/s. has however stated that the Certifying

Surgeon is not appointed for the area so far. That condition has therefore been deleted from the revised draft. The said condition may be inserted by amending the order after a Certifying Surgeon is appointed for the area.

Id/- B.P.DALAL.
Additional Deputy Secretary to Government.

U.R.to L. & H.D.No12143 dated 23rd July 1952.

RHB.
3.7.

Legal Department.

Two draft notifications are sent herewith, one for preliminary publication and the other for final publication.

As some persons covered by the former notification of 18-3-1950 are to be excluded and some persons not included therein are to be covered it would be better to supersede the former notification and to issue a fresh one Such a notification requires previous publication under section 1(5) of the Payment of Wages Act, 1936.

The persons to whom it is intended to apply the Payment of Wages Act under section 1(5) of the said Act are persons who have been defined to be "dock Workers" in section 2(b) of the Dock Workers (Regulation of Employment) Act, 1948. It would, therefore, be necessary to examine whether such persons are employed in any industrial establishment as defined in section 2(ii) of the Payment of Wages Act. Under Section 2(ii) of the said Act "industrial establishment" means any -

(a) x x x x

(b) dock, wharf or jetty,

(c) x x x x

(d) x x x x

The point for consideration is whether the persons now proposed to be covered by the Act are persons who are employed in industrial establishments, namely, dock, whar or jetty. The expression "dock workers" defined in section 2(b) ofthe Dock Workers (Regulation of Employment Act, 1948, refers to persons employed in, or in the vicinity of, any port on work etc. "Port" has not been specified to be an industrial establishment under the Payment of Wages Act. The correct method of applying the Payment of Wages Act would be to say that the said Act shall extend to the payment of wages of persons employed on work in connection with the loading, unloading, movement or storage of cargoes in or on any "dock, wharf or jetty" in the Port of Bombay or work in connection

with the preparation of ships or other vessels for the receipt or discharge of cargoes or leaving the Port of Bombay. This will be consistent with the definition of "industrial establishment" as given in the Payment of Wages Act and would at the same time apply to persons employed in or on dock, wharf or jetty in the Port of Bombay.

It would not also be proper to repeat the words "to be employed" used in the definition of "dock workers" in the Dock Workers (Regulation of Employment) Act. Those words are appropriate in the said Act as the object was to provide for regulating the employment of dock workers whether registered or not. Those words would not be appropriate under the Payment of Wages Act as the payment of wages will be only paid to those who will be actually employed in any industrial establishment.

Id/- B.P.DALAL.
Additional Deputy Secretary to Government.

U.R. to D.D.,No.20260/B, dated the 3rd December 1952 .

RHB.
3.7.

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